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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

CIVIL AND POLITICAL RIGHTS

PROMOTION AND PROTECTION OF HUMAN RIGHTS: HUMAN RIGHTS DEFENDERS

Written statement*/ submitted by the Lawyers Committee for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 January 2000]

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*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

Attacks on human rights defenders in Mexico

1. The Lawyers Committee for Human Rights is concerned about the harassment of, and restrictions placed on, human rights defenders in Mexico. In recent years the Mexican non-governmental movement has grown in size and become increasingly vocal in exposing human rights violations and proposing human rights reforms. The Lawyers Committee welcomes the government's efforts to enter into a dialogue with non-governmental organizations, however we are concerned at the Government's apparent reluctance to permit the non-governmental community to freely express their criticisms of government policies. There is evidence of government involvement in physical attacks and threats against human rights defenders, as well as malicious criminal prosecutions and legislative or administrative restrictions on the right to freedom of association of individuals and organizations concerned with human rights issues.

2. We welcome the visit of the High Commissioner for Human Rights to Mexico. We note her expression of concern regarding attacks on human rights defenders as well as the concerns of the Sub-Commission on the Promotion and Protection of Human Rights (Res 1998/4, August 20, 1998, E/CN.4/SUB.2/RES/1998/4).

3. We also welcome Mexico's acceptance of the jurisdiction of the Inter-American Court of Human Rights. However we note that Mexico has so far taken few concrete steps to implement a November 1999 order of the Court which required the Government to adopt protective measures regarding human rights lawyer, Digna Ochoa and other lawyers at her non-governmental organization, the Miguel Agustin Pro Juárez Human Rights Center (PRODH) (see below).

Physical attacks and malicious prosecutions directed at Mexican human rights defenders

4. The following two cases involve attacks on two prominent human rights lawyers, Digna Ochoa and Israel Ochoa. They are good illustrations of direct attacks on human rights defenders for three reasons: (i) they are well-documented; (ii) they indicate that State agents have been involved in attacks sustained over several years; and (iii) the connection between the attacks and the human rights activities of the two lawyers is apparent.

5. *Digna Ochoa and the PRODH.* On 9 August 1999, Digna Ochoa, legal director at the PRODH, was abducted for several hours. Shortly thereafter, the PRODH began to receive written death threats. Then, in October 1999, Ms. Ochoa was attacked in her Mexico City home and, in a 9-hour ordeal, she was rendered unconscious, blindfolded, tied up, threatened, harshly interrogated and pressured to sign a statement by at least two individuals. The attackers insistently questioned her on insurgent organizations in southern Mexico. After cutting her phone line, the attackers left Ms.

Ochoa near an opened natural gas valve, exposing her to the escaping gas. The next day, PRODH staff discovered that their offices had been broken into and ransacked; a death threat scrawled on a file was found among the debris.

6. These latest incidents are almost certainly related to the PRODH's human rights legal work. Ms. Ochoa and the PRODH have recently been involved in the defense of two environmental activists who were detained and unfairly charged with criminal offenses in the state of Guerrero. They are also representing several victims of human rights violations committed by the Mexican Army in Guerrero.

7. Furthermore, the nature of the interrogation and its focus on insurgent groups suggests that Government agents were involved. The Government has nonetheless failed to pursue an effective investigation to identify and prosecute the individuals responsible for these attacks.

8. This is not the first time that Digna Ochoa and the PRODH have been subjected to persecution, presumably perpetrated by State actors. Threats against the organization first began in 1995 when PRODH attorneys, including Digna Ochoa, agreed to represent individuals accused of participation in the Zapatista insurgency movement in criminal proceedings. The PRODH alleged, in those criminal cases, that the Judicial Police and prosecutorial authorities had tortured their clients and denied them their due process rights.

9. *Israel Ochoa.* Mr. Ochoa serves as criminal defense lawyer for more than 100 detainees from the Loxicha region of Oaxaca. He has denounced, in the context of criminal proceedings as well as more publicly, the human rights violations which State agents have committed against the Loxicha detainees, including the use of torture to obtain confessions. As a result of these allegations, the federal Office of the Attorney General (*Procuraduria General de la República*) opened a baseless criminal investigation against Mr. Ochoa allegedly for the crime of simultaneous representation of two parties to a lawsuit with competing interests. Although there were no facts supporting the charges, on June 25, 1999, a federal judge issued an arrest warrant against Mr. Ochoa. Fortunately another judge eventually annulled the arrest warrant and ordered the case to be closed on the grounds that the prosecution could not establish the elements of the crime. It appears however that these accusations were intended to deter Mr. Ochoa from defending these detainees.

10. In September 1996, federal agents abducted Mr. Ochoa in the state of Veracruz after a homicide occurred in a community receiving his legal services in relation to a land dispute. The warrantless arrest took place outside government offices while Mr. Ochoa was waiting to meet with officials about the land matter. After interrogating him and holding him incommunicado for several hours, federal agents handed him over to Veracruz state police and prosecutors who then re-interrogated and beat him before releasing him due to lack of evidence.

11. The Lawyers Committee urges Mexico to take concrete steps to guarantee the application of the UN "Declaration on Human Rights Defenders", in particular, Article 12, which requires States to protect human rights defenders and lawyers from violence. Furthermore, Principles 16 and 18 of the Basic Principles on the Role of Lawyers requires Governments to ensure that lawyers can perform all of their professional functions without intimidation, and that they shall not be identified with their clients or their clients' causes as a result of discharging their functions.

Legal restrictions on the activities of Mexican human rights defenders

12. In addition to physical and prosecutorial hindrances employed by the Government, the work of human rights defenders is being restricted by legislation and administrative action. For example, the Government has abused its admittedly broad discretion in immigration matters, to expel foreigners who are invited by Mexican organizations to carry out human rights activities in Mexico. In many cases, the Government has invoked the Mexican constitutional prohibition on foreigners engaging in political activities, even though the Government has never defined what activities are considered to be political. Although some foreigners have succeeded in challenging the legality of the expulsion orders in Mexican courts, they have been deported before the outcome of the court proceeding. Even when the person is still in the country at the time of a court order in their favor, the government has, in some cases, proceeded with expulsion.

13. The Government has also imposed highly burdensome requirements on international human rights observers who wish to obtain visas to travel to Mexico. The 1998 special rules for obtaining an FM3 human rights observer visa significantly limit the possibility for successful human rights missions to Mexico, even where foreign delegations are invited by Mexican organizations. For example, they limit time in Mexico and the number of persons who may enter as a group. The Government has repeatedly announced its intent to modify these rules in order to comply with international standards, however no such changes have been made and no proposals have been circulated.

14. Finally, both state and federal legislative initiatives purport to regulate human rights and other non-governmental organizations in a manner which would severely restrict their right to freedom of association. Some of these laws, such as the 1995 Oaxaca associations law, compulsorily impose burdensome registration processes and extensive governmental supervision. While other proposed laws would establish voluntary registration, they also may provide the Government with the means to control non-governmental organizations by conditioning the exercise of basic rights on participation in the regime.

Recommendations

15. In light of the serious attacks on human rights defenders in Mexico, the Lawyers Committee for Human Rights urges the Commission on Human Rights to call upon the Mexican Government to:

(a) comply fully with the principles of international law set forth in the Declaration on Human Rights Defenders and the Basic Principles on the Role of Lawyers. Mexico should place particular emphasis on the investigation of attacks and threats against human rights defenders and lawyers and the prosecution of those responsible.

(b) cease deportations of foreign human rights observers on the grounds that they have engaged in "political activity" simply as a result of their human rights observation work. The Government should also revise the special rules for the FM3 visa for human rights observation in order to comply with international standards.

(c) refrain from adopting legislation which would effectively restrict the right of non-governmental organizations to exercise their freedom of association.